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06 UNITED STATES DISTRICT COURT  
07 WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

08 UNITED STATES OF AMERICA, ) CASE NO. CR99-0591-JCC  
09 Plaintiff, )  
10 v. ) SUMMARY REPORT OF U.S.  
11 JAVIER EMILIO MARTINEZ, ) MAGISTRATE JUDGE AS TO  
12 Defendant. ) ALLEGED VIOLATIONS  
OF SUPERVISED RELEASE  
\_\_\_\_\_ )

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14 An evidentiary hearing on supervised release revocation in this case was scheduled before  
15 me on July 7, 2006. The United States was represented by AUSA Susan Roe for Douglas B.  
16 Whalley and the defendant by Robert M. Leen and Mark Nakagarawa, Rule 9 intern. The  
17 proceedings were digitally recorded.

18 Defendant had been sentenced on or about August 18, 2000 by the Honorable John C.  
19 Coughenour on a charge of Conspiracy to Distribute Cocaine, and sentenced to 20 months  
20 custody, 5 years supervised release.

21 The conditions of supervised release included the standard conditions plus the requirements  
22 that defendant submit to search, participate in a drug treatment and testing program, abstain from

01 the use of alcohol, and not re-enter the United States illegally if deported. (Dkt. 100).

02 Defendant's probation officer reported on June 21, 2001 that he used marijuana and  
03 cocaine. He was reprimanded, put in a structured testing program, and referred to a community  
04 based residential program. (Dkt. 117).

05 The conditions of supervision were modified on August 23, 2001 to require defendant to  
06 participate in a home confinement program with electronic monitoring for up to 90 days. (Dkt.  
07 118).

08 On September 26, 2001, defendant's probation officer reported that he used cocaine on  
09 two occasions. Mr. Martinez had been incarcerated by the INS, so no further action was taken  
10 at the time. (Dkt. 119). The conditions of supervision were modified on March 18, 2002 to  
11 require residence in a halfway house for up to 4 months. (Dkt. 120). Supervised release was  
12 modified on June 14, 2002 to delete the requirement that defendant pay subsistence for the  
13 halfway house residence. (Dkt. 121). Additional time in the halfway house residence was  
14 authorized on July 23, 2002 (Dkt. 122). Home confinement with electronic monitoring was  
15 imposed for up to 120 days on November 12, 2002. (Dkt. 123).

16 On February 13, 2003, defendant admitted to violating the conditions of supervised release  
17 by using cocaine and failing to appear for drug testing. (Dkt. 133). Defendant was sentenced to  
18 home confinement with electronic monitoring until July 15, 2003. (Dkt. 141).

19 On September 16, 2005, defendant was found to have violated the conditions of supervised  
20 release by using cocaine on several occasions, failing to submit urine samples on several occasions,  
21 failing to cooperate in the collection of a DNA sample, failing to report to probation, and failing  
22 to submit a monthly report. He was sentenced to 60 days in custody, one year supervised release.

(Dkt. 154).

In an application dated June 15, 2006 (Dkt 156), U.S. Probation Officer Felix Calvillo, Jr. alleged the following violations of the conditions of probation:

1. Failing to notify the probation officer ten days prior to a change in employment, in violation of standard condition number 6.

2. Failing to submit a written report to the U.S. Probation Office within the first five days of May 2006, in violation of standard condition number 2.

3. Failing to submit to drug testing on May 22, 2006 and June 5, 2006, in violation of the general condition of supervision and special condition number 2.

Defendant was advised in full as to those charges and as to his constitutional rights.

Defendant admitted alleged violations one and two and waived any evidentiary hearing as to whether they occurred. The government moved to dismiss violation number three.

I therefore recommend the Court find defendant violated his supervised release as alleged in violations one and two, that the court dismiss violation number three, and that the Court conduct a hearing limited to the issue of disposition. The next hearing will be set before Judge Coughenour.

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01 Pending a final determination by the Court, defendant has been released on the conditions  
02 of supervision.

03 DATED this 7th day of July, 2006.

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05 Mary Alice Theiler  
06 United States Magistrate Judge

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08 cc: District Judge: Honorable John C. Coughenour  
09 AUSA: Susan Roe and Douglas B. Whalley  
10 Defendant's attorney: Robert M. Leen  
11 Probation officer: Felix Calvillo, Jr.  
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